UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,314	08/25/2000	Andrej Gregov	249768045US	6403

25096 7590 11/09/2007

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER	
LEROUX, ETIENNE PIERRE	
ART UNIT	**PAPER NUMBER**
2161	

MAIL DATE	DELIVERY MODE
11/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/648,314	GREGOV ET AL.	
	Examiner	Art Unit	
	Etienne P LeRoux	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2007* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *15,16, 27-35 and 40-51* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *15,16,27-35 and 40-51* is/are rejected.

7)☐ Claim(s) ____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 August 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Claim Status:

Claims 1-14, 17-20, 25, 26 are cancelled. Claims 21-24 and 36-39 are withdrawn. Claims 15, 16 and 27-35 and 40-51 are pending. Claims 15, 16, 27-35 and 40-51 are rejected as detailed below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15, 16, 27-31, 45 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,412,012 (Bieganski et al), hereafter Bieganski.

Claims 15, 16, 27-31, 45 and 48:

Bieganski discloses:

receiving requests from the user to display information about each of a plurality of items [shopping set 202, Fig 2, col 7, line 65 through col 8, line 15]

selecting as seed items the plurality of items that were displayed [shopping set 202, Fig 2, col 7, line 65 through col 8, line 15]

generating a list of recommended items using the selected seed items, wherein the generated list does not contain the selected seed items [recommendation set 201, Fig 2, col 7, lines 45-65]

displaying the generated list of recommended items to the user [display 116, Fig 1]

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bieganski as applied to claim 27 above, and further in view of Cluts.

Claim 32:

Bieganski discloses the elements of the claimed invention as noted above but does not disclose wherein a distinguished one of the product groups comprises products that are recordings of a single artist, and wherein the information displayed for the distinguished product group describes the artist. Cluts discloses wherein a distinguished one of the product groups comprises products that are recordings of a single artist, and wherein the information displayed for the distinguished product group describes the artist [col 12, lines 45-50]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bieganski to include wherein a distinguished one of the product groups comprises products that are recordings of a single artist, and wherein the information displayed for the distinguished product group describes the artist as taught by Cluts for the purpose of adding new songs to a current playlist [abstract]

Claim 33:

The combination of Bieganski discloses the elements of the claimed invention as noted above and furthermore discloses wherein a distinguished one of the product groups comprises products that are books written by a single author, and wherein the information displayed for the distinguished product group describes the author [Bieganski; col 5, lines 20-25]

Claim 34:

The combination of Bieganski discloses the elements of the claimed invention as noted above and furthermore discloses wherein the control displayed for a distinguished product group is a button that is selected by the user by clicking the button [Cluts; Fig 5]

Claims 40-42, 46, 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bieganski as applied to claim 15 above, and further in view of US Pat No 6,850,899 (Chow et al), hereafter Chow.

Claims 40, 46 and 49:

Bieganski discloses the elements of the claimed invention as noted above but does not disclose removing an item from the plurality of items selected as seed items in response to a request from the user. Chow discloses removing an item from the plurality of items selected as seed items in response to a request from the user [Fig 3]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bieganski to include removing an item from the plurality of items selected as seed items in response to a request from the user as taught by Chow for the purpose of removing an item which the shopper considers too expensive.

Claims 41, 42 and 47:

The combination of Bieganski and Chow discloses the elements of the claimed invention as noted above but does not disclose adding an item to the plurality of items selected as seed items in response to a request from a user [abstract]

Claims 43 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bieganski and Chow as applied to claim 42 above, and further in view of Cluts.

Claim 43 and 50:

The combination of Bieganski and Chow discloses the elements of the claimed invention as noted above but does not disclose wherein the control is a button that is selected by the user clicking the button. Cluts discloses wherein the control is a button that is selected by the user clicking the button [Fig 5]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination of references to include Cluts discloses wherein the control is a button that is selected by the user clicking the button as taught by Cluts for the purpose of activating the selection.

Claims 35 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bieganski as applied to claim 27 in view of US Pat No 5,897,650 issued to Nakajima et al (hereafter Nakajima).

Claims 35 and 51:

Bieganski discloses the elements of claim 27 as noted above. Bieganski fails to disclose wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a destination region, and wherein the

control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region. Nakajima discloses wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region [Fig 2]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bieganski to include wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region as taught by Nakajima for the purpose of creating a scrap book via the drag-and-drop mechanism [step 30 in Fig 23]. The skilled artisan would have been motivated to improve the invention of Bieganski such that information can be easily inputted and outputted from a document via the drag-and-drop mechanism.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bieganski and Chow as applied to claim 42 in view of Nakajima.

Claim 44:

The combination of Bieganski and Chow discloses the elements of the claimed invention as noted above but does not disclose wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a

destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region. Nakajima discloses wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region [Fig 2]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above combination of references to include wherein the control displayed for a distinguished product group is a draggable portion of the information describing the product group, together with a destination region, and wherein the control displayed for the distinguished product group is selected by the user by dragging the draggable portion of the information describing the product group to the destination region as taught by Nakajima for the purpose of creating a scrap book via the drag-and-drop mechanism [step 30 in Fig 23]. The skilled artisan would have been motivated to improve the invention of the above combination of references such that information can be easily inputted and outputted from a document via the drag-and-drop mechanism.

Response to Arguments

Applicant's arguments filed 6/12/2007 have been fully considered but are not persuasive for the reasons given below.

Applicant Argues:

Applicant states in the second paragraph of page 9 "Neither of the above-described portions of Bieganski describes producing recommended items each based on multiple seed items. Moreover, none of the other references identified in the examiner's rejection disclose or suggest generating item recommendations based on multiple user-selected seeds. Accordingly, applicant respectfully suggests that these rejections be withdrawn."

Examiner Responds:

Examiner is not persuaded. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., generating item recommendations based on multiple user-selected seeds) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The claim language will be considered below. Claim 15 recites ***generating a list of recommended items each based on the selected seed items.***

Bieganski discloses the following in column 7, line 65 through column 8, line 15:

A shopping set 202 includes items for which the user has indicated a current intent to purchase or consume. The user's indication may be explicitly declared or inferred from user actions. Examples of ways that a shopping set can be generated include, but are not limited to: using the contents of a "market basket" from an Internet-based shopping service; using an active shopping cart that scans the bar codes of products being placed in the basket; using the set of items entered into a cash register at check-out time; and using a shopping list provided by the customer. A shopping set may also be generated by observing the customer's behavior. It is advantageous to use a shopping set when the value of recommendations provided to the user can be increased based on their compatibility with products currently being purchased. Hence, a cooking store might use the shopping set at check-out to identify items for suggestive selling, such as a Chinese cookbook for customers purchasing a Wok.

Bieganski reads on the claim language ***selected seed items*** because Bieganski discloses:

(1) a market basket from an Internet-based shopping service

(2) an active shopping cart that scans the bar-codes of products being placed in the basket

(3) the set of items entered into a cash register at check-out time

(4) a shopping list provided by a customer

(5) shopping set may be generated by observing the customer's behavior.

Bieganski reads on the claim language ***generating a list of recommended items*** because

Bieganski discloses:

(1) recommendations provided to the user

(2) suggestive selling

Bieganski discloses the following in column 10, lines 35-50:

The compatibility modifier 200 accepts as inputs the recommendation set 201, the compatibility rules 204, and, optionally, the shopping set 202 and/or the history set 203. The compatibility modifier 200 applies the compatibility rules 204 to the recommendation set 201, optionally using the shopping and historical sets 202 and 203, to produce a modified recommendation set. In this embodiment of the invention, the compatibility modifier 200 executes as a process on the computer system, for example computer system as shown in FIG. 1, on one or more processors. The compatibility modifier 200 implements a modification algorithm, which is an algorithmic process that applies the rules and generates the modified recommendation set.

Bieganski reads on the claim language ***generating a list of recommended items*** because

Bieganski discloses:

(1) recommendation set 201

Applicant Argues:

Applicant states in the third paragraph of page 9 "Nakajima, cited by the examiner for teaching draggable controls, describes a document scrap system in which a user selects a portion of a document to create a document scrap for incorporation into other documents. Is is unclear how it would be possible to combine the system of Nakajima with Bieganski to produce the aspects of applicant's technology described by the claim. Bieganski does not describe dragging at all, and Nakajima only describes dragging portions of documents to the desktop for later reuse in other documents. The control recited by applicant's claims is for selecting recommendation seeds. There is no teaching or suggestion with either Bieganski or Nakajima to combine these references in any way, much less to produce applicant's invention. Accordingly, applicant respectfully requests that these rejections be withdrawn.

Examiner Responds:

Examiner is not persuaded. According to the Supreme Court, the TSM test is one of a number of valid rationales that could be used to determine obviousness. It is not the only rationale that may be relied upon to support a conclusion of obviousness.

Examiner maintains that dragging is well-known and expected in the art. A definition[1] of dragging is the following:

In graphical user interface environments, to move an image or window from one place on the screen to another by "grabbing" it and pulling it to its new location using the mouse. The mouse pointer is s positioned over the object, and the mouse button is pressed and held while the mouse is moved to the new location.

---

[1] Microsoft Computer Dictionary, Fifth Edition

Claim 15 claims ***generating a list of recommended items.*** One of ordinary skill in the art at the time the invention was made would have been motivated to look to the teaching of Nakajima for a means to manipulate the list of recommended items because moving an object in a graphical user interface environment is well-known and expected in the art.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday between 8:00 am and 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

11/7/2007

ETIENNE LEROUX
PRIMARY EXAMINER